

<p style="text-align: right;">Page 117</p> <p>1 D. Naseman</p> <p>2 A. Without the --</p> <p>3 Q. Without the squiggle.</p> <p>4 A. The squiggle and the repeat of Page 1,</p> <p>5 yes.</p> <p>6 Q. And then under set -- and 7 says, "If</p> <p>7 deal blows, she hasn't gotten higher ground," and</p> <p>8 you say -- and underneath it it's A and B.</p> <p>9 A. And C.</p> <p>10 Q. So would you agree that when you -- A,</p> <p>11 B, and C relate to what would happen if the deal</p> <p>12 blows.</p> <p>13 A. I think I've answered the question. I</p> <p>14 believe my answer is, as you apparently don't want</p> <p>15 to take my explanation for it, and you'll decide</p> <p>16 how you want to view it.</p> <p>17 Q. That's not acceptable. I've asked you</p> <p>18 a different question.</p> <p>19 Are A and B and C descriptions of what</p> <p>20 you believe might happen if the deal blows?</p> <p>21 A. No.</p> <p>22 Q. No?</p> <p>23 A. A is not.</p> <p>24 Q. And the fact that it's a sub -- it's</p> <p>25 in an outline and under the -- under a broader</p>	<p style="text-align: right;">Page 119</p> <p>1 D. Naseman</p> <p>2 for 80 percent of the assets I produced, since I</p> <p>3 put in 82 percent of the income," that was your</p> <p>4 assessment of what you would argue if the deal</p> <p>5 blew, right?</p> <p>6 A. That is correct, up to that point.</p> <p>7 Q. You weren't saying -- so when you said</p> <p>8 "I will argue for 80 percent of the assets," and</p> <p>9 I'm going to leave the rest of that out, "And</p> <p>10 Toehl can keep hers without any claim of mine,"</p> <p>11 weren't you saying there that if you -- if the</p> <p>12 deal blows, the position you would take is that</p> <p>13 you'd keep 80 percent, and she can keep assets in</p> <p>14 her name without any claim of mine?</p> <p>15 A. No.</p> <p>16 Q. No. And you remember that here today,</p> <p>17 that that's what -- that's not what you meant?</p> <p>18 MR. ROTTENSTREICH: Objection to the</p> <p>19 form of the question.</p> <p>20 A. Let me see if I can explain it this</p> <p>21 way.</p> <p>22 Q. That's not my question, sir?</p> <p>23 A. I'm trying to explain to you --</p> <p>24 Q. Excuse me. You'll answer my</p> <p>25 questions, not what you want to say.</p>
<p style="text-align: right;">Page 118</p> <p>1 D. Naseman</p> <p>2 category of 7 -- let me redo it.</p> <p>3 B, certainly, I will argue for 80</p> <p>4 percent of the assets, is what you would do if the</p> <p>5 deal blows, correct?</p> <p>6 A. Certainly the first part of that is</p> <p>7 accurate. The last part of that, "And TH can keep</p> <p>8 her without any claim of mine," certainly wouldn't</p> <p>9 be the case if we were in an extended proceeding.</p> <p>10 That's why I'm saying these paragraphs</p> <p>11 are not precise, okay, as you're trying to read</p> <p>12 them. These are factors to consider.</p> <p>13 Q. But A is when you said, "She used</p> <p>14 divorce as leverage to extract 60 percent of my</p> <p>15 assets." Certainly within your assets were the</p> <p>16 investment account, correct?</p> <p>17 A. As I have previously said, no. That's</p> <p>18 not what was meant there.</p> <p>19 Q. I'm not asking what was meant. Your</p> <p>20 assets at that time, regardless of what was in</p> <p>21 this clause, your assets included the investment</p> <p>22 account, correct?</p> <p>23 A. If you're talking about an abstract</p> <p>24 outside of this document, yes, that is true.</p> <p>25 Q. When you say -- and 7 B, "I will argue</p>	<p style="text-align: right;">Page 120</p> <p>1 D. Naseman</p> <p>2 A. If you don't want to hear the answer,</p> <p>3 I'm sorry.</p> <p>4 Q. Were you -- is the answer yes or no?</p> <p>5 When you said, "I will argue for 80 percent of</p> <p>6 assets I produced, since I put in 82 percent of</p> <p>7 income, and Toehl Harding can keep hers with -- TH</p> <p>8 can keep hers without any claim of money," isn't</p> <p>9 it a fact that you were describing the position</p> <p>10 you would take if there were litigation because</p> <p>11 the deal blew? Yes or no.</p> <p>12 MR. ROTTENSTREICH: Objection to the</p> <p>13 form of the question.</p> <p>14 A. Based on my understanding of your</p> <p>15 question, the answer is no.</p> <p>16 Q. You have a recollection today that</p> <p>17 that's -- your interpretation of this paragraph is</p> <p>18 what you believed at the time you wrote it?</p> <p>19 A. Yes.</p> <p>20 Q. Where did you write this document?</p> <p>21 A. This document was written in Incline</p> <p>22 Village, Nevada.</p> <p>23 Q. And there -- so 7 B, at least the</p> <p>24 first sentence, had to do with what would happen</p> <p>25 if the deal blows, right? I think we're in</p>

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 2 agreement on that.
 3 MR. ROTTENSTREICH: Objection to the
 4 form of the question.
 5 A. It certainly relates to if the deal
 6 blows.
 7 Q. But no part of A -- your testimony has
 8 to do with what argument Toehl Harding would make
 9 in the event that the deal blew?
 10 MR. ROTTENSTREICH: Objection to the
 11 form of the question.
 12 A. No, because she wouldn't be using any
 13 leverage at that point. Doesn't apply.
 14 Q. So since you recall writing this and
 15 what you meant at the time, why is it that you put
 16 A underneath a section that starts with the word
 17 if deal blows?
 18 A. As I sit here today -- as I said, I
 19 was writing down thoughts for my counsel and
 20 various factors, and this was where this one fell
 21 as I was going through the process.
 22 Q. So pure coincidence that it happened
 23 to be under Section 7?
 24 MR. ROTTENSTREICH: Objection to the
 25 form of the question.

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 2 Q. Go to Page 2, T 814. Is that your
 3 handwriting on the page?
 4 A. Yes. I'm not sure what the squiggle
 5 is at the top. That's unidentifiable, but maybe
 6 just --
 7 Q. Let's go to TH 817.
 8 A. Right.
 9 Q. And it says -- you see the line
 10 towards the bottom on the left said, "Things to
 11 hide"?
 12 A. That certainly appears that the last
 13 word --
 14 Q. What do you mean when you wrote things
 15 to hide?
 16 A. I'm asking my -- can I ask him a
 17 question?
 18 Q. Not during this, while the question is
 19 pending.
 20 A. Read the question again, please.
 21 (Question read.)
 22 A. This was a response of issues that
 23 could come out in a later contested proceeding if
 24 we did not accept the offer that Mr. Cohen had
 25 made on the 15th of April.

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 2 Q. These were things, 1 through 5, that
 3 you wanted to hide from Toehl Harding by settling
 4 the case; isn't that right?
 5 A. It -- the word hide is obviously an
 6 inappropriate choice of words here. What this was
 7 conveying was is that there were certain existing
 8 circumstances and certain things planned in the
 9 future that if you have an ongoing and long
 10 contested proceeding, those things would
 11 inevitably bubble up during that proceeding.
 12 Q. These were things that were going to
 13 happen or had happened?
 14 A. Well, some were going to happen, some
 15 had already happened, but you'll notice that the
 16 word is to hide a futuristic concept, not
 17 something that has been hidden, if you will.
 18 Okay?
 19 Q. Could you explain to me -- at the time
 20 you wrote this, the first one says "Marcia
 21 relationship."
 22 A. Correct.
 23 Q. Did Toehl Harding know about the
 24 Marcia relationship at the time you wrote this
 25 document?

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 2 A. It was my hope that she did not, okay.
 3 Let me finish. However, at a -- at a particular
 4 point in time, probably in November, that
 5 relationship became more public.
 6 Toehl had many friends in the
 7 Berkshires. It's not inconceivable that word
 8 would have gotten back to her, although I had
 9 hoped that it had not.
 10 Q. When did your relationship with Marcia
 11 begin?
 12 A. That would have been, I believe,
 13 sometime in July.
 14 Q. Was that something you tried to hide
 15 from Toehl Harding?
 16 A. Well, it certainly wasn't something
 17 that I was shouting from the rooftops.
 18 Q. I mean, forget about shouting from the
 19 rooftops.
 20 Did you ever say to her, Toehl, I
 21 can't be around because I got to go and meet my
 22 girlfriend?
 23 A. No, I certainly did not tell her that.
 24 Q. Certainly you tried -- and I take it
 25 there were times when you were with your

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2 girlfriend that you told Toehl Harding you had
3 been someplace else.

4 MR. ROTTENSTREICH: Objection to the
5 form.

6 A. I can't recall offhand the particular
7 instance of that occurring, because Toehl was not
8 in the Berkshires on an ongoing basis.

9 Let's put it this way. On a daily
10 basis, she might have been up during weekends, but
11 there may not have been any reason for her to make
12 that statement to her because she's not there.

13 Q. Is your testimony here you didn't try
14 to hide your relationship from Marcia from your
15 wife?

16 MR. ROTTENSTREICH: Objection to the
17 form of the question.

18 A. No. I -- let me say that I certainly
19 did not want to hurt Toehl with her finding out
20 other than through me that a relationship existed.

21 Q. Yes or no.

22 Prior to November, prior to the time
23 that you wrote this document, Exhibit 5, yes or
24 no, did you try to hide your relationship with
25 Marcia from your wife, Toehl Harding? Yes or no.

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2 MR. ROTTENSTREICH: Objection to the
3 form of the question.

4 A. In a -- in a broad sense the answer is
5 yes.

6 Q. How about in a narrow sense?

7 A. You'll have to give me what the narrow
8 one is.

9 Q. You testified just now that in a broad
10 sense the answer is yes, so I'm asking in what
11 narrow sense the answer would be no.

12 A. Well, in the broadest sense, as I said
13 before, I didn't want her to hear it other than
14 from me, if it arose, but at the same time, she
15 was not in the Berkshires, and Marcia and I were
16 out and about, and she may, okay, so that there
17 was no assurance that, you know, even if best
18 efforts of hiding it or not disclosing it would be
19 successful. I mean --

20 Q. You understood the difference between
21 you seeking to hide something and Toehl Harding
22 finding out regardless of your effort to hide it?

23 MR. ROTTENSTREICH: Objection to the
24 form of the question.

25 A. That one I'm not --

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2 Q. You would agree that the fact that you
3 sought to hide the relationship wouldn't change --
4 be changed by the fact that she found out. It
5 would only mean that you had been unsuccessful in
6 hiding it.

7 MR. ROTTENSTREICH: Objection.

8 A. I don't equate those two. I'm sorry.

9 Q. You don't?

10 A. No.

11 Q. So is it your view that if there's a
12 possibility that something -- another person --
13 you don't want another person to know, if there's
14 a possibility that they could find out, then
15 you're not hiding anything? Is that what you're
16 testifying to?

17 MR. ROTTENSTREICH: Objection to the
18 form of the question.

19 A. Maybe it's late, but you have lost me.

20 Q. I'm trying. I think what you
21 testified to was that you didn't seek to hide the
22 relationship with Marcia from Toehl because there
23 was a possibility that Toehl might find out about
24 the relationship from third parties.

25 A. Well, there's -- there is no need

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2 particularly to hide the relationship when Toehl
3 is not around, all right? I mean -- so in --
4 that's the majority of the time we're talking
5 about.

6 Q. How about the times when she was
7 around? Did you tell her?

8 A. No, certainly did not.

9 Q. How about No. 2, Marcia debt, 80
10 percent. What does that relate to?

11 A. That relates to, I believe, three
12 loans that were made to Marcia in connection with
13 her business.

14 Q. Were those loans made prior to you
15 writing your notes in Exhibit 5?

16 A. Yes.

17 Q. Did you seek to hide the fact of those
18 loans from Toehl Harding?

19 A. Again, we will get into the same
20 metaphysical, but this was in my view -- although
21 it had personal aspects it to, it was just another
22 investment like I would be making in the
23 investment account, but -- and no, I didn't go up
24 to Toehl with a piece of paper and say see the
25 loan I made for \$50,000 or \$27,000 or whatever to

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2 Marcia.

3 In fact, the only loan that was made
4 when Toehl was in fact around I believe was the
5 initial loan in August.

6 Q. When you say she was around, you mean
7 the only time that Toehl was in the Berkshires
8 when you actually gave Marcia the money? Is that
9 what you mean?

10 A. Well, I don't believe that Toehl was
11 present when I gave her the money, but it's the
12 time frame in which the loan was made, so the
13 later -- the other loans, anything over \$50,000
14 was made when Toehl was not in any kind of regular
15 -- I mean, it's after a separation.

16 Q. You were still married?

17 A. Certainly still married.

18 Q. Why is it that you put that under the
19 heading things to hide if you weren't hiding it?

20 MR. ROTTENSTREICH: Objection to the
21 form of the question.

22 A. Keep in mind, again, it was very
23 imprecise and in retrospect an unfortunate term to
24 use, but this was essentially -- I was being asked
25 to say, okay, if you didn't take the deal, and you

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2 went to a contested issue, what are the things
3 that could come up that you know might cause you
4 some concern, and these were things that I off the
5 top of my head came up with to respond to that my
6 counsel's question.

7 Q. Is it -- was it your intention that if
8 the deal blew, so to speak, that you would do what
9 you could so that Toehl Harding would not find out
10 about these items?

11 MR. ROTTENSTREICH: Objection to the
12 form of the question.

13 A. While it's speculative, okay, I will
14 certainly say that if -- if I had ever been served
15 in a divorce proceeding with the kinds of
16 discovery requests you have made here, which are
17 not unusual, given the fact that I just went
18 through one, I think some of these -- some of
19 these things would certainly have come up and been
20 disclosed, so I don't think -- my perspective at
21 that point was these things aren't going to be
22 hidden, okay, if there's a contested divorce
23 proceeding.

24 They are going to come up, people are
25 going to get hurt, and you know, with the

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2 revelation of certain of these issues.

3 Q. Were there circumstances under which
4 you planned to hide these five items?

5 MR. ROTTENSTREICH: Objection to the
6 form of the question.

7 A. No.

8 Q. What would the surgery cost?

9 A. Those were the costs related to the
10 reversal of a tubal ligation that occurred -- that
11 Marcia had shortly after she had had her first son
12 or, you know, somewhere in that time frame.

13 Q. When did the reversal take place?

14 A. That -- my recollection is -- I forget
15 the name of the procedure, but I think that was
16 like January 27, 1993, somewhere around there.

17 Q. So by that time were you separated
18 from Toehl?

19 A. Yes.

20 Q. Where did the money for the surgery
21 cost come?

22 A. The only reason I -- I find that a
23 little strange is because there's been dueling
24 statements about where the costs were satisfied.
25 It is my position.

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2 Q. I'm not interested in whose position
3 it is. I want to know where the money came from,
4 not what your position is.

5 MR. ROTTENSTREICH: Objection. He
6 should be allowed to finish his answer,
7 because he was giving you his answer.

8 MR. BURSTEIN: It's nonresponsive.

9 MR. ROTTENSTREICH: Move to strike it.

10 MR. BURSTEIN: I'll withdraw the
11 question.

12 MR. ROTTENSTREICH: Let him answer
13 when he's answering.

14 MR. BURSTEIN: I'll withdraw the
15 question.

16 Q. I'm not interested in what your
17 position is. I'm asking where the money for the
18 surgery costs came from.

19 A. Would you object if I said it was my
20 understanding that the surgery costs were
21 satisfied from my assets in terms of whether it
22 was income or other assets that existed at the
23 time those costs were in fact satisfied?

24 Q. Did the costs -- were the costs paid
25 out of your investment account?

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A. I couldn't say whether that was the specific source.

Q. Were there any other assets besides the investment account which you claim -- which you believed were your assets and not part of the marital pot?

MR. ROTTENSTREICH: Objection to the form of the question.

A. Sure. Well, I mean, if you're trying to include the 12,000 within, quote, the marital pot, I'm not going to argue with that because it's a metaphysical distinction.

I had money that was in the Lee bank account. I considered that mine, just as Toehl would consider money that was in her Bankers Trust account to be hers, so -- but if you want to say everything was the marital pot, yes.

If you accept the -- my understanding that the \$12,000 was satisfied from cash that came out of a check or some form of payment from me, that is accurate.

The real question and caveat to that is the timing which that payment was made, and that may have been after the divorce was final. I

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just don't know the answer to that, but given the delays in billing and payments, that certainly could have happened.

Q. Where did the money for the loans to Marcia come from?

A. The second loan, which was in December 16 or 15, somewhere around there, for 27,000, that came from the Lee bank account, after a deposit, as I recall, of \$50,000 from the -- my Republic account, and off the top of my head, I can't recall exactly where the 50,000 came from, but that certainly could have been from the investment account.

Q. How about --

A. In August.

Q. How about the diamond ring? When did you buy the diamond ring for Marcia?

A. The time frame for the purchase of that was either April 23 or sometime in the beginning of May. I just can't figure out --

Q. Which year?

A. Oh, 1993.

Q. And then below we have something that says two relations, 50,000/5,000. What does that

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refer to?

A. That refers to categories of payments either made or to be made to relatives over whatever period of time that contested proceeding involved.

For instance, I gave one cousin a couple of thousand dollars so that he could attend the Olympics in 1992 to watch his wife dive for the US team. I think I gave my brother some funds.

I was planning an extension on the Michigan property that was going to cost a significant amount of money, so I was sort of ballparking and guesstimating what might be involved in that category.

Q. Why was that -- those payments listed under things to hide?

A. As I said previously, the word hide is not the correct word there. It was things that would essentially come up during a proceeding that might be objected to. That's all.

Q. Do you remember testifying in your divorce case in a deposition in January of 2006?

A. Yes.

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Q. I'm going to read you a question and answer from that at 104.

"Again, under things to hide, money to relatives, it says \$50,000 to something.

"Answer: Yeah, I don't know what that reference is to."

What has happened between January 17, 2006, to May -- what are we 12, 2008, to refresh your recollection as to what that money was for?

A. Two years -- well, not two years, but two years have elapsed. The complaint has been filed against me. I reviewed a great many more things that I hadn't looked at in years, and that I certainly had not looked at prior to the fact that this single page was put in front of me in a deposition without any explanation as to what exactly it was.

Q. What documents have you looked at that have helped refresh your recollection?

A. I looked at the documents relating to the Michigan property.

Q. Did you produce them to your attorney?

A. Yeah. The deeds and those kind of things?

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Q. What in the deeds helped you refresh your recollection about -- for example, how about the money for the Olympics?

What has helped you refresh your recollection about paying for somebody to go to the Olympics?

A. Look at one of the -- the Shearson -- whatever the name, Shearson Prudential, whatever account you want to call it that was produced.

In the back there are expenditures from that account that are listed, and I believe you'll see one to an Oldenhaus. I think you'll also see in there there is -- that is responsive to the Olympics. I think there was a graduation gift to a Kirkola, which was another second cousin of mine, so, you know, these are things that, you know, have -- could be the subject of a dispute.

Q. Why is it that you had that under things to hide?

A. As I said, the word hide is not an appropriate term which would come up during a protracted proceeding.

Q. Would you consider yourself a person who is careful with language?

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of 2006 or in that time frame.

Q. Did you -- let's talk about 818 to 823. Was this a document that was left in your house and found by Marcia?

A. I don't think found is the correct term. This was a document that was locked in my footlocker, which was jimmied open, and this document was taken from there for whatever. I mean --

Q. You said this was prepared, and I'm only talking about 818 through 823. Which lawyer was this prepared for?

A. This was prepared for Leonard Florescue.

Q. Do you recall when it was done?

A. It would have been after February 24, okay? And let me just say that I don't presently recall when the handwritten changes were made to what was typewritten on here, and the circle around stocks is not of my doing, but it was in the, I'd say, latter part of February, beginning of March period.

Q. Was this prepared on a computer or a typewriter?

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MR. ROTTENSTREICH: Objection to the form of the question.

A. If I am doing it for publication, yes. If I am making notes to myself, and I know what I'm talking about, I don't necessarily sit there and actually fuss over it, and particularly since this was being done in such a time crunch, okay, given the fact that we had to respond to this offer by the -- I believe it was the 18th, and I had to get ahold of Len to discuss these terms.

MR. BURSTEIN: Why don't we take a break?

(Recess taken.)

(Plaintiff's Exhibit 6, History, marked for identification.)

Q. Have you seen this document before?

A. Let me say two things. I've seen these two documents before. There's a document that is a cover page and -- well, let's use the Bates stamps.

TH 818 to 823 is a document that I sent to my counsel at his request. TH 824 labeled supplemental information is not a part of that document, and I first saw in -- I want to say July

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A. This was on a typewriter. I didn't have a computer in Nevada.

Q. Do you still have that typewriter?

A. No. It's long gone. 15 years ago.

Q. When you say it was long gone, when did you get rid of it?

A. Probably it broke down. It might have been eight years, ten years ago.

Q. Before your marriage with Marcia ran into difficulty, would that be fair to say?

A. Yes.

Q. Let's go to 824, and I understand that you have -- you claim that you did not prepare this. So who do you believe prepared this?

A. I am not going to speculate on who I believe prepared it. There's some interesting things in here, but I'm not going to speculate. That's up to somebody else to determine.

Q. Do you believe this document was in your footlocker with T 818 through 823?

A. Certainly not to my knowledge.

Q. But you would agree that this is a document that was initially produced by Marcia in your divorce?

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A. Yes. That's where I first saw it.

Q. And I want to go back to the time that your -- eight years ago when you lost your or you threw your typewriter away; would that be fair to say?

A. Without holding me to the time frame, yeah, I'm sure it was disposed of somewhere.

Q. I'd like to ask you sitting here today, can you think of anyone who eight years ago or approximately eight years ago would have had a motive to add the sheets, create the sheets supplement information?

A. I'm not -- I don't think I've indicated anything relating to how this first -- how this -- the time when this was prepared or that it was prepared on a particular typewriter.

Q. You said it was prepared on a typewriter.

A. I said my document was prepared on a typewriter.

Q. I understand that. I want to ask you -- and I'll tell you why I'm asking you. I believe that expert opinion will establish this document, TH 824, was created on the same

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typewriter as TH 818 through 823, so my question is: First of all, who had access to your typewriter in the years between your divorce and when you threw your typewriter away?

A. Well, certainly Marcia would have. I would have. Who else was around? I'm trying to think of where it was. It was in the Lenox -- there were some people that stayed in the Lenox house when we were living during the winters in Scottsdale, so they could have had access to it.

Q. Who were these people?

A. They were some friends of Marcia's. I'm trying to think of their last name. There was a couple -- I can't think of the last name offhand, and then there was a woman who was separated from her husband that would have been there maybe during that time frame.

Q. And the typewriter was in Lenox the whole time?

A. It was in Lenox for -- yeah, a portion of the time, and then it may have eventually gotten to Scottsdale, and where it was thrown out. I didn't keep track.

Q. Did you ever discuss your finances

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with any of the people who were living in the Lenox house?

Did you ever discuss with them your finances as of the time you were getting a divorce from Toehl Harding?

A. The Lenox house?

Q. The Massachusetts house.

A. Did I discuss the terms of my financial arrangements?

Q. Yes.

A. No, no.

Q. Do you know if Marcia ever discussed the terms of your financial status as of the time of the divorce from Toehl Harding with those people?

A. I don't know.

Q. Let's go through this. This is T 824.

I'm going to read you the first Paragraph 1

entitled, "Credit Cards and Retail Accounts."

TH, Toehl Harding, and DN, that's you, right?

A. That's correct.

Q. "Maintained separate credit cards and retail accounts and each was responsible for his

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or her prospective balances." Was that true during the time of your marriage?

A. Yes.

Q. "Neither TH nor DMN has ever used the other's credit cards or charged merchandise to the other's retail accounts."

Is that to the best of your knowledge true?

A. Yes.

Q. Who, to your knowledge, other than you and Toehl Harding possessed that knowledge about the way you maintained your credit cards between -- between the period, say, February, January 1992 and the time when you stopped -- you ended your possession, so to speak, of your typewriter?

A. Let's see. Certainly I would. Toehl would have. I'm sure that potentially our respective counsel's would have when they were discussing things. Potentially people who read the correspondence. If there's references to things in there, they could have divined them from that.

Q. Who read the correspondence?

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2 A. Well, certainly Marcia did. I mean --

3 Q. Other than Marcia?

4 A. Well, I don't know. I mean, there's
5 other -- you're asking me a range of people who
6 could have had knowledge of this, and I'm saying
7 that if it was reflected in the correspondence,
8 anybody reading that could.

9 Q. Who to your knowledge with access to
10 your typewriter would have had knowledge of the
11 information in Paragraph 1?

12 A. Based on what I would say, what I have
13 said, it would probably be limited to me and
14 Marcia, if we're talking about just the
15 typewriter.

16 Q. Yes. No. 2, entitled, "TH Toehl
17 Harding," right?

18 A. Correct.

19 Q. "Information. DMN has never had
20 access to and does not presently know any of TH's
21 bank accounts investment interests or her
22 corporate benefit plans, and DMN does not know any
23 of the tax balances -- any of the -- any of Toehl
24 Harding's balances in any of the foregoing."

25 Was that true as of the time you were

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2 getting a divorce from Toehl Harding?

3 A. Yes.

4 Q. "Based upon tax information, she has
5 provided at year end, I believe that Toehl
6 Harding's balances could be substantial."

7 Other than you, who else during the
8 time that you owned the typewriter had knowledge
9 that you never had access to Toehl Harding's bank
10 accounts, et cetera?

11 A. Probably anybody who read the
12 correspondence, including -- or Toehl, myself, and
13 the lawyers.

14 Q. I'm asking with access to the
15 typewriter.

16 A. Access to the typewriter. I would say
17 that that's at least within the parameters you're
18 talking about, it would be Marcia and myself
19 probably.

20 Q. Toehl wouldn't have had access to the
21 typewriter after February of 1992; isn't that so?

22 A. Not -- February of 1992? She
23 certainly shouldn't have, let's put it that way.

24 Q. It says No. 3 -- what about -- "Based
25 upon tax information was provided, she has

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2 provided at year end, I believe that Toehl
3 Harding's balances could be substantial."

4 Was that true? Did you believe that
5 as of the time you were getting divorced from
6 Toehl Harding?

7 A. Yeah, I think that's reflected in the
8 correspondence. Yeah.

9 Q. Let's go to three.

10 "For various reasons, Toehl Harding is
11 unaware of the existence of the Shearson Lehman
12 Brothers account or the income that has been
13 generated by that account over the last two years.
14 Similarly, Toehl Harding is not presently aware of
15 the extent of my income for the 1990 and 1991 tax
16 years, nor for the year 1992, just completed."

17 I take it your testimony is that that
18 statement is not true.

19 A. That statement is not true.

20 Q. And we can discuss the reasons for
21 this at your convenience. You don't -- you didn't
22 write that either?

23 A. No.

24 Q. And 4, "During the marital period, DMN
25 has earned over 80 percent of the total income

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1 D. Naseman

2 generated by Toehl Harding and DMN."

3 You believe that could be accurate as
4 of the time you were getting the divorce?

5 A. Yes, yes.

6 Q. And who with access to the typewriter
7 would have known that you had earned 80 percent of
8 the total income?

9 A. Certainly myself and anybody who read
10 the correspondence.

11 Q. With access to the typewriter.

12 A. Marcia -- I'm sorry. I'm sorry.

13 Q. "This has been primarily due to LIN
14 Broadcasting stock options which were exercised or
15 otherwise cashed in in 1998 and -- 1988 and 1990."
16 Is that statement true?

17 A. Yes, that's true.

18 Q. And am I correct that the only people
19 with access to the typewriter who would have known
20 that to be so are you and Marcia?

21 A. Yes.

22 Q. Then it says -- you can read the rest
23 of that sentence, starting "TH has received NYNEX
24 stock," and I'm going to ask you first are the
25 statements starting with the sentence, "TH has

37 (Pages 145 to 148)

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1 D. Naseman
 2 received" to the end of the paragraph with the
 3 word USI, are those statements true?
 4 A. They certainly may be true. I'm not
 5 sure that they are necessarily true.
 6 Q. Let me rephrase the question.
 7 Did you believe this -- did you
 8 believe the information conveyed in that part of
 9 Paragraph 4 to be true as of the time that you
 10 were getting a divorce from Toehl Harding?
 11 A. Did I believe it to be true? The
 12 answer is no, because I wouldn't have seen it, but
 13 secondly, I'm going to the issue that if it read
 14 NYNEX securities, okay, so instead of options it
 15 might have been stock, it might have been, you
 16 know, whatever, that may be accurate, because I
 17 would certainly expect her to be getting some kind
 18 of equity interest in NYNEX, and my understanding
 19 or my belief was, or still is, that Toehl had some
 20 kind of equity with USI as well when she was
 21 there.
 22 Q. Is there anyone who had access to the
 23 typewriter other than you and Marcia who had
 24 knowledge that this was your belief?
 25 A. Knowledge that this was my belief.

1 D. Naseman
 2 Q. Who with access to your typewriter did
 3 you communicate if anyone that belief?
 4 A. I don't know whether I would have
 5 communicated that to anybody. I might have
 6 communicated it to Lenny, Len Florescue.
 7 Q. With access to your typewriter?
 8 A. I don't know whether that has gotten
 9 into any of the correspondence or notes or
 10 anything like that.
 11 Q. How about --
 12 A. It's a mystery to me.
 13 Q. How about going back to -- let me --
 14 No. 1, credit cards and retail accounts, the
 15 information in that is accurate, right?
 16 A. Yes.
 17 Q. Am I correct that the only people who
 18 might have had that information were you, Marcia,
 19 Toehl, and perhaps lawyers?
 20 A. And if it was reflected in any of the
 21 documentation, anybody who was reading it.
 22 Q. Who else was, to your knowledge -- was
 23 reading the documentation?
 24 A. Well, as I said, Marcia certainly was,
 25 or has.

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1 D. Naseman
 2 Q. As of the time that you were getting a
 3 divorce from Toehl.
 4 A. Well, it -- I don't know who had
 5 access to my beliefs.
 6 Q. Who did you -- did you tell anyone
 7 other than -- who had access to the typewriter,
 8 other than Marcia, that you believed that Toehl
 9 had potential income coming to her from NYNEX and
 10 US Industries?
 11 A. I don't know what you're asking. I'm
 12 not connecting.
 13 Q. At the time of the divorce, you
 14 believed that Toehl Harding was going to receive
 15 income in some form from NYNEX and income in some
 16 form from US Industries, correct?
 17 A. No, no. I would -- she -- if we're
 18 going back at the time, I would have believed that
 19 she was getting some kind of NYNEX equity on an
 20 ongoing basis. US Industries was in the past.
 21 That was over, I believe. I mean, it's reflected,
 22 I think, in a tax return.
 23 Q. But you believed that she had received
 24 income from US Industries?
 25 A. Oh, had. Yes, yes.

1 D. Naseman
 2 Q. I added Marcia.
 3 A. I'm sorry, and based on events that
 4 have occurred at the Lenox property, anybody who
 5 breaks into the house and starts rummaging through
 6 things, so from -- I mean, but realistically
 7 speaking on a reasonable basis, absent some
 8 extraneous thing, I think that's the -- that's the
 9 parameters.
 10 Q. Just so we're clear, you, Marcia,
 11 Toehl, the lawyers, and perhaps people who might
 12 have broken into the Lenox house?
 13 A. Yeah, that's the only --
 14 Q. No. 2 is also substantially -- is
 15 correct, the information conveyed in No. 2?
 16 A. If I was saying it -- I think that
 17 that would be true.
 18 Q. Am I correct the only people, to your
 19 knowledge, who would have had the information
 20 conveyed in No. 2 would have been you, Marcia,
 21 Toehl, and perhaps somebody who might have broken
 22 into the Massachusetts house and the lawyers?
 23 A. Yeah, and anybody reading the
 24 correspondence.
 25 Q. But other than you, Marcia, Toehl, the

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1 lawyers, and perhaps these vandals, was there
2 anybody else, to your knowledge, who had access to
3 the correspondence to read it?

4 A. No, not that I know of. At least my
5 correspondence. You know, I can't account for
6 anybody else's.

7 Q. No. 4, would you agree that the
8 information in No. 4 is substantially true?

9 A. 4. Oh, yeah, with the caveat I gave
10 before about set of options limiting, instead of
11 limiting options -- I shouldn't say.

12 Subject to the caveat I made before
13 regarding equities instead of limiting it to
14 options.

15 Q. I understand what you're saying. Let
16 me be clear.

17 No. 4 is correct except that the
18 sentence "TH has received NYNEX stock options
19 periodically," is inaccurate to the extent you may
20 have -- it may have been equity as opposed to
21 stock options?

22 A. Right, may have been a stock purchase
23 program or a stock grant program rather than just
24 the right to purchase.
25

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1 Q. Who else other than you, Marcia, the
2 lawyers, Toehl Harding -- let's take out Toehl
3 Harding. You, Marcia, the lawyers, and vandals,
4 would have known all of the information in
5 paragraph -- all of the information in Paragraph
6 4?

7 A. I'm not sure why you took out Toehl
8 Harding.

9 Q. You can add Toehl Harding.

10 A. I mean, certainly she would know. Who
11 would know. Offhand, I can't think of anybody at
12 the moment.

13 Q. Am I correct that -- so 1, 2, and 4 on
14 TH 824 are accurate, but for the caveat with
15 regard to the NYNEX stock options, and the only
16 people who would have had this knowledge, to your
17 knowledge, are Toehl Harding, you, Marcia, the
18 lawyers, and possible vandals?

19 MR. ROTTENSTREICH: Objection.

20 A. Vandals, others who read the
21 documentation.

22 Q. I thought you said the only others you
23 can think of were people who broke into the house
24 and rummaged around.
25

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D. Naseman

1 A. You're not talking about who could
2 know. Not tied to the typewriter.

3 Q. Not tied to the typewriter.

4 A. So it would have been somebody in
5 Lenny's office.

6 Q. I meant the lawyers. I meant the
7 lawyer in the lawyer's offices.

8 A. Okay, I'll go with that.

9 Q. So the only portion of TH 824
10 according to you that is untrue is No. 3, right?

11 A. Certainly, yeah.

12 Q. Do you know the brand of the
13 typewriter you had?

14 A. Offhand I think -- it's been so long.

15 Q. Was it an electric typewriter?

16 A. Yeah, one you plug in a wall and --

17 Q. IBM? Smith Corona?

18 A. No to IBM. I have no idea. It was
19 purchased in Nevada once I got out there, because
20 I didn't bring anything with me, so I purchased
21 that and a fax machine and a few other things.

22 Q. You purchased it in Nevada?

23 A. Uh-huh.

24 Q. How big was it?
25

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1 A. It was one of those carry kind.

2 Q. You took it back and forth with you to
3 Massachusetts?

4 A. I'm not sure I would say I took it
5 back and forth. It was there. It was then in
6 Massachusetts. It was then in Scottsdale. It may
7 have gone back once or twice when we made the
8 transitions from Scottsdale to Lenox during the
9 summer and then back again, so it would have been
10 in either of those two places.

11 Q. Is your testimony that at -- there
12 were times when you had the typewriter after you
13 were separated from Toehl Harding that the
14 typewriter was left in a house where you were not
15 residing at the time?

16 A. Certainly, yes. Certainly could be.

17 Q. Let me ask you one question while he's
18 doing that.

19 I asked you a question. You said you
20 didn't want to speculate, but I'd ask you yes or
21 no.

22 Do you have a belief as to who
23 prepared -- I think it's TH 824. Do you have a
24 belief as to who prepared TH 824? Yes or no.
25

39 (Pages 153 to 156)

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1 D. Naseman
2 A. I try not to.
3 Q. If you try not to, it sounds to me
4 that you might have been unsuccessful in that
5 endeavor, so --
6 A. There could be.
7 Q. Who is it that you -- who is the
8 belief that you could have?
9 A. I'm not going to respond that.
10 Q. I think you are required to. I think
11 your lawyer will tell you that you are required to
12 respond to that.
13 A. That question?
14 MR. BURSTEIN: I think you have to
15 direct him.
16 MR. ROTTENSTREICH: Could I talk to
17 him?
18 MR. BURSTEIN: Sure. If you want to
19 take a break, go outside, don't hesitate.
20 (The witness consults with his
21 attorney.)
22 A. This is in response to your last
23 question. Given the information that's in there,
24 it could be a combination singularly or in
25 combination of Marcia and Toehl Harding.

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1 D. Naseman
2 MR. BURSTEIN: Let's mark this as 7.
3 (Plaintiff's Exhibit 7, 1987 Tax
4 Return, marked for identification.)
5 Q. I ask you to look at 87 and ask you
6 whether this is a true and accurate copy of the
7 tax return you filed with Toehl Harding in 1987.
8 A. Tax returns plural?
9 Q. State and federal tax returns.
10 A. I have two copies of the state.
11 Q. There may be two copies.
12 A. Yeah, it -- you know, I have no reason
13 to believe -- yeah, there's two copies attached.
14 Q. Is the handwriting on these, this tax
15 return or both tax returns your handwriting?
16 A. Yes, the handwriting itself, yes.
17 Q. So the numbers that are put in there,
18 you wrote those numbers?
19 A. Yes.
20 MR. BURSTEIN: Let's mark this as
21 Exhibit 8.
22 (Plaintiff's Exhibit 8, 1988 Tax
23 Return, marked for identification.)
24 Q. And look at this document. Are these
25 true and accurate copies of tax returns, state and

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1 D. Naseman
2 federal, that you filed in 19 -- for 1988 with Ms.
3 Harding?
4 A. Yeah, without vouching that everything
5 is in there. Yeah, it certainly looks like the --
6 Q. The handwriting is yours on these tax
7 returns?
8 A. Yes, it is.
9 Q. And the numbers that were put in were
10 written in by you?
11 A. The ones in pen rather than typing,
12 yes.
13 MR. BURSTEIN: Make this next. I
14 guess it's 9.
15 (Plaintiff's Exhibit 9, 1989 1040,
16 marked for identification.)
17 Q. I ask you the same questions.
18 Are these true and accurate copies of
19 tax returns you filed with Toehl Harding for tax
20 year 1989?
21 A. It certainly -- they certainly appear
22 to be.
23 Q. Do you recognize the handwriting on
24 the tax returns as yours?
25 A. Yes.

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1 D. Naseman
2 Q. And the handwritten numbers you put in
3 there?
4 A. That is correct.
5 MR. BURSTEIN: Let's do the federal as
6 10.
7 (Plaintiff's Exhibit 10, 1990 1040,
8 marked for identification.)
9 Q. Is this a true and accurate copy of
10 the federal tax returns you filed with Toehl
11 Harding in 19 -- for the tax year 1990?
12 A. Let's put it this way. It appears to
13 be, but this is not the tax return for 1990 I
14 produced.
15 MR. BURSTEIN: Why don't we take a
16 break and get that one, so there's no issue.
17 I'd rather do that so that we don't
18 have any question.
19 (Recess taken.)
20 (Plaintiff's Exhibit 11, 1990 1040,
21 marked for identification.)
22 Q. I'm going to ask you is Exhibit 11 a
23 true and accurate copy of the tax joint tax return
24 you filed with Toehl Harding for the tax year
25 1990? Don't worry about Exhibit 10. I'm just

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1 D. Naseman
 2 asking about Exhibit 11.
 3 A. Exhibit 11?
 4 Q. This is the one that you produced?
 5 A. This is the one I produced, yes.
 6 Q. That's your handwriting on the tax
 7 return?
 8 A. Yes, it is.
 9 Q. And the numbers written in are numbers
 10 written in by you?
 11 A. Yes.
 12 Q. This truly and accurately reflects the
 13 income that you earned?
 14 A. In 1990, yes.
 15 Q. In 1990?
 16 If we look to DN 00421, you see that
 17 there is a check from you with a 1370 Avenue of
 18 the Americas address for \$163,573.94?
 19 A. Correct.
 20 Q. Was 1370 Avenue of the Americas your
 21 office at the time?
 22 A. Yes, LIN Broadcasting.
 23 Q. We go to the next page. There's
 24 \$100,000 check drawn on a joint account from --
 25 listed at the address of 425 East 51st Street.

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1 D. Naseman
 2 Is that -- was that your home address
 3 at the time?
 4 A. Yes, it was.
 5 Q. That check is \$100,000 from the joint
 6 account, right?
 7 A. Correct.
 8 Q. Is there a reason why you broke up the
 9 checks so that \$100,000 went to the joint account
 10 and 160,573.74, was paid out of an account with
 11 your office address?
 12 A. There would have been a reason, and in
 13 trying to reconstruct this, the -- it may have
 14 been that this -- this -- one of these accounts
 15 would --
 16 MO MR. BURSTEIN: I'm going to move to
 17 strike.
 18 Q. I didn't ask what it may have been.
 19 I'm asking if you recall why --
 20 A. Do I recall why?
 21 Q. -- the tax payment was made in two
 22 different checks.
 23 A. As I sit here right now, the answer is
 24 no.
 25 Q. Are there any documents that you could

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1 D. Naseman
 2 review that would refresh your recollection as to
 3 why you broke it up into two checks?
 4 A. No.
 5 Q. Did the --
 6 A. Not that I can recall right now. If
 7 you give me something, I'm more than happy to.
 8 Q. Did the check that was written on the
 9 1370 Avenue of the Americas account, where did the
 10 statements for that account -- where were they
 11 sent to?
 12 A. Probably sent to my office, right.
 13 MR. BURSTEIN: Let's mark this 12.
 14 (Plaintiff's Exhibit 12, 1990 1040,
 15 marked for identification.)
 16 Q. Have you seen this document before,
 17 Exhibit 12?
 18 A. Yes, I have.
 19 Q. When was the first time you saw this
 20 document?
 21 A. I believe it was November 3 of 2005.
 22 Q. That was in connection with your
 23 divorce with Marcia?
 24 A. Correct.
 25 Q. And do you recognize any of your

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1 D. Naseman
 2 handwriting on this document?
 3 A. It is difficult to say. It certainly
 4 is a close approximation of mine, and I've looked
 5 at this before. I can't tell you whether parts of
 6 this was a draft or what, but it certainly isn't a
 7 document that I prepared.
 8 Q. Look at the number on Line 7.
 9 A. Line 7.
 10 Q. The first page?
 11 A. Right.
 12 Q. The number 1,252,059.88. Is that
 13 numbering -- did you write that numbering there?
 14 A. Couldn't tell you.
 15 Q. You don't recall?
 16 A. No, it -- as I -- as I'm saying, I
 17 don't know whether this is a close approximation
 18 of mine that somebody did or whether this was a
 19 draft of another tax return, but you can see that
 20 the 252 seems to be different or in some context
 21 from the 059. I mean, just size wise it's
 22 different.
 23 Q. When you say it could be a draft of
 24 the different tax return, what do you mean?
 25 A. Well, I mean that when I did a tax

41 (Pages 161 to 164)

<p style="text-align: right;">Page 165</p> <p>1 D. Naseman</p> <p>2 return, I would do various drafts as things got</p> <p>3 added, and if I was preparing the final, if I made</p> <p>4 a typo or something like that, I would start over</p> <p>5 again and redo the form.</p> <p>6 Q. When were you paid the \$5 million from</p> <p>7 LIN, what month of the year?</p> <p>8 A. Well, it's -- it's not that simple.</p> <p>9 There was probably about 3.9 million that was -- I</p> <p>10 think technically speaking I don't think it was</p> <p>11 LIN. It was McCaw, and that would have been in</p> <p>12 March 1990.</p> <p>13 Then additional payments, the balance</p> <p>14 would have been made either throughout the year as</p> <p>15 my salary was going on during this period, and</p> <p>16 then in November -- on November 1 or somewhere in</p> <p>17 that month, they paid out the rest of the money</p> <p>18 when I retired.</p> <p>19 Q. Certainly then by the time you were --</p> <p>20 by the time you secured a copy of a 1990 1040, you</p> <p>21 knew that you had earned at least \$3 million from</p> <p>22 LIN in the year 1990?</p> <p>23 A. Certainly, absolutely.</p> <p>24 Q. So if this was a draft that you</p> <p>25 prepared, on what basis would you have filled in</p>	<p style="text-align: right;">Page 167</p> <p>1 D. Naseman</p> <p>2 Q. -- was for the income tax that was</p> <p>3 paid, not for the money that you were given?</p> <p>4 A. Certainly, I know that, yes.</p> <p>5 Q. In fact, if you look on Page 2 of this</p> <p>6 Exhibit 12, how is it that only 237,028.52 is</p> <p>7 listed?</p> <p>8 A. Don't ask me. I didn't prepare it.</p> <p>9 Q. So this is not your signature on the</p> <p>10 bottom, the signature page of TH 454?</p> <p>11 A. No, that's a copy of a signature which</p> <p>12 is identical to the tax -- 1990 tax return that is</p> <p>13 Exhibit 11 on Page 2.</p> <p>14 Q. And what do you draw from that?</p> <p>15 MR. ROTTENSTREICH: Objection to the</p> <p>16 form.</p> <p>17 Q. What conclusion do you draw from that?</p> <p>18 A. That somebody copied the signature</p> <p>19 block on Exhibit 11, Page 2, and pasted it onto</p> <p>20 the signature block on Exhibit 12, Page 2.</p> <p>21 Q. And take a look at 1989, which I think</p> <p>22 is Exhibit 9 and look and the signature line on</p> <p>23 the second page of that exhibit.</p> <p>24 A. Yes.</p> <p>25 Q. Do you see any significant difference</p>
<p style="text-align: right;">Page 166</p> <p>1 D. Naseman</p> <p>2 the number 1,252,059.88?</p> <p>3 A. That's what I'm saying, it could have</p> <p>4 been a mistake.</p> <p>5 Q. A mistake by you?</p> <p>6 A. A mistake by me or intentionally done</p> <p>7 by somebody else with a close approximation. If</p> <p>8 somebody was giving me information over the phone</p> <p>9 and I'm trying to -- I'm trying to do your</p> <p>10 conceivable issue here.</p> <p>11 The fact of the matter is I did not</p> <p>12 prepare that form, but if you want to look at the</p> <p>13 W-2, I think if somebody was giving me --</p> <p>14 Q. On what exhibit?</p> <p>15 A. I'm sorry.</p> <p>16 Q. Exhibit 12?</p> <p>17 A. On Exhibit 11. DMN 0421.</p> <p>18 If somebody was giving me the federal</p> <p>19 income tax instead of the other number just to the</p> <p>20 next of it of wages and tips, you'd get a totally</p> <p>21 different result, but I am saying, I -- this is</p> <p>22 baffling.</p> <p>23 Q. You know that the -- the entry for</p> <p>24 federal income tax on February -- on No. 9 --</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 168</p> <p>1 D. Naseman</p> <p>2 between the signature line on 45 on the 1990 tax</p> <p>3 return, the Exhibit 12, with the 1,252,000 income</p> <p>4 figure, and the signature line on Exhibit 9, TH</p> <p>5 442, which you have acknowledged is your</p> <p>6 signature?</p> <p>7 A. Yeah, they're different.</p> <p>8 Q. You think they're different?</p> <p>9 A. Yeah.</p> <p>10 Let me make sure I understand what</p> <p>11 you're asking me. Are you saying they're</p> <p>12 identical? Because they certainly are not.</p> <p>13 The M and the A doesn't come at the</p> <p>14 same point. The N is differently framed, and the</p> <p>15 line that's in the D, for instance, goes further</p> <p>16 in than on one than the other, so -- and Toehl's</p> <p>17 name is much darker on one, and the G is</p> <p>18 differently -- I mean, they're not identical</p> <p>19 signatures. People don't do identical signatures.</p> <p>20 Q. Comparing Exhibit 11 to Exhibit 12, do</p> <p>21 you have an opinion as to who would have created</p> <p>22 Exhibit 12?</p> <p>23 A. Do I have an opinion? Are you making</p> <p>24 a distinction between an opinion and a belief?</p> <p>25 Q. Do you have a belief as to who</p>

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1 D. Naseman
2 prepared Exhibit 12?
3 A. Yes.
4 Q. Who do you believe prepared it?
5 A. I believe Marcia or somebody under her
6 direction prepared it.
7 Q. Do you have a belief as to why Marcia
8 would have done this?
9 A. I think that the trial in our divorce
10 was about to commence, and they needed something
11 to show to the judge to get a deferral of that to
12 allow her lawyer more time to work on the case.
13 MR. BURSTEIN: Let's mark this as 13.
14 (Plaintiff's Exhibit 13, 1990 IT 201,
15 marked for identification.)
16 Q. Is this a document you prepared?
17 A. Which document are you asking me
18 about?
19 Q. Exhibit 13.
20 A. No.
21 Q. Do you have a belief as to who
22 prepared this document?
23 A. The same belief as I indicated before.
24 Q. That would be Marcia or somebody
25 acting under Marcia's direction?

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1 D. Naseman
2 A. That is correct.
3 MR. BURSTEIN: I think we are almost
4 done, so let's take a ten-minute break and
5 then --
6 (Recess taken.)
7 Q. Has looking at exhibit -- I guess
8 which is -- is it 13? Is the 1040 with the --
9 that's the state one, and Exhibit 12 is the
10 federal one with the 1 million number?
11 A. Correct.
12 Q. To your knowledge, has a handwriting
13 expert reviewed -- done an analysis of the
14 signatures on Exhibit 12 and 13?
15 A. To my knowledge, I don't know. I've
16 heard the issue on the signature. I've heard the
17 statements regarding the signature block. I don't
18 know if an analysis is being done on that.
19 Q. If we go to Exhibit 11, which is the
20 1990 return that was filed, we see that -- go to
21 426. We see that your account for the Republic
22 National Bank Account No. 318188309 -- do you see
23 that?
24 A. Where? What are you reading from?
25 Q. 426 on the bottom.

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1 D. Naseman
2 A. Where is number?
3 Q. Under account number in the square.
4 A. Oh, okay.
5 Q. You see that the -- and we see that
6 309, that account was sent to you at your office
7 at 1370 Avenue of the Americas, right?
8 A. Correct.
9 (Plaintiff's Exhibit 14, Bank
10 Statement, marked for identification.)
11 Q. I show you 14, and this is -- as you
12 will see, if you look under the line, do you see
13 where it says "Service Summaries" on the left-hand
14 side? Let me stand over and --
15 A. Service summaries, okay.
16 Q. Right below it says money director.
17 A. Right.
18 Q. And you see the account number
19 0318188309, the same account number that's on 426
20 on Exhibit 11?
21 A. Yes.
22 Q. If you notice that the -- this
23 statement went to your home as of December 30,
24 1988. Do you see that?
25 A. Uh-huh.

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1 D. Naseman
2 Q. Is there a reason why sometime between
3 19 -- 12/30/88, and when you filed your -- you
4 received the document that's 426 in Exhibit 11,
5 that you changed the address of the account?
6 A. As I recall, we were changing
7 apartments at that time, and I was having things
8 sent to me at my office address.
9 Q. Is there a reason why you didn't do
10 that -- if we look at 425 on Exhibit 11 --
11 A. 425. Okay. Where are -- oh, 425.
12 Q. Do you see that is a statement for
13 another account, a joint account with you and
14 Toehl Harding. Do you see that?
15 A. Right.
16 Q. That's sent to 425 East 51st?
17 A. Right.
18 Q. So my question is: If you were moving
19 the other account to your office address because
20 you were in the process of moving apartments, why
21 didn't you change the address for the joint
22 account of Republic National Bank?
23 A. Only because this was a pre-existing
24 account. When this -- let's see. This was in --
25 if you go to -- I believe you're talking about the

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1 D. Naseman
 2 1990 time frame here, and you went to the next
 3 page.
 4 This is reflecting the interest on --
 5 this is reflecting the deposit from the money from
 6 the retirement of the options.
 7 Q. That's not my question.
 8 A. No, I'm explaining to you exactly why
 9 the change was made, because this money was
 10 flowing into this other account. Okay? There was
 11 nothing flowing into the joint account at that
 12 time. These funds that were coming from my
 13 options were flowing into the 8309 account.
 14 Q. But if the reason why you had the 8309
 15 account transferred was because you were removing
 16 apartments -- that's what you said, sir.
 17 A. No. I'm sorry. What I said was that
 18 that was being done at that time, but it was
 19 coincidental that -- the reason why it was done is
 20 because there was a deposit being made into the
 21 account.
 22 MR. BURSTEIN: Could read back the
 23 answer to the question we had before?
 24 (Answer read.)
 25 Q. If as you said -- I asked you why you

1 D. Naseman
 2 Q. When did you move apartments?
 3 A. I don't recall offhand.
 4 Q. I mean, you recall that this happened,
 5 that you made this change because you were moving
 6 apartments, so how is it that you know that that
 7 was when the change was made if you don't recall
 8 when you were moving apartments?
 9 A. I think it was within this time frame
 10 here.
 11 Q. Didn't you move within the same
 12 building?
 13 A. Yeah, we did.
 14 Q. You were in the same building,
 15 correct?
 16 A. Correct, yeah.
 17 Q. And you continued to own both
 18 apartments, correct?
 19 A. Yes.
 20 Q. So notwithstanding that you thought it
 21 was important to have one of the accounts sent to
 22 your office because you were moving apartments --
 23 A. That's not my testimony whatsoever.
 24 You're mischaracterizing it. What I said was
 25 there was an occurrence and a question that was

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1 D. Naseman
 2 had that account statement, the mailing address
 3 changed from your home to your office. You said
 4 because you were moving apartments, and you
 5 started having things sent to your office.
 6 A. Yeah, and it all coincided with the
 7 fact that a deposit was being made in that account
 8 at that time.
 9 Q. You didn't say, sir, that it was just
 10 that account. You said you were moving things to
 11 your office. Why would you have moved a -- if you
 12 were moving the one statement because you were
 13 presumably concerned about the fact that you were
 14 moving apartments, why did you move the joint
 15 account statement?
 16 A. I stand corrected. My answer was
 17 incomplete at the time.
 18 Mentally I put those two things
 19 together because the time frames we were talking
 20 about is when I was getting the income. It was
 21 going into the special account, and that was the
 22 justification for changing the account. It was --
 23 Rosemary probably asked me at the time, you know,
 24 is there any changes in this account, and I
 25 probably said, you know, send it to me here.

1 D. Naseman
 2 asked at the time. It was coincidental, and I
 3 explained it and said just send it to me at the
 4 office. I had other things sent to me at the
 5 office.
 6 Q. What other things did you have sent to
 7 you?
 8 A. I can't recall offhand.
 9 Q. But you recall this?
 10 A. I do.
 11 MR. BURSTEIN: I don't have anything
 12 further. Nothing further.
 13 MR. ROTTENSTREICH: No questions.
 14 (Time noted: 4:13 p.m.)
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 25

DAVID MILFORD NASEMAN

Subscribed and sworn to before me
 this ____ day of _____, 2008.

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1
2 CERTIFICATE
3
4 STATE OF NEW YORK)
5 : ss.
6 COUNTY OF NEW YORK)
7
8 I, MAUREEN MC CORMICK, a Notary Public
9 within and for the State of New York, do hereby
10 certify:
11 That DAVID MILFORD NASEMAN, the
12 witness whose deposition is hereinbefore set
13 forth, was duly sworn by me and that such
14 deposition is a true record of the testimony given
15 by the witness.
16 I further certify that I am not
17 related to any of the parties to this action by
18 blood or marriage, and that I am in no way
19 interested in the outcome of this matter.
20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 13th day of May, 2008.
22
23
24 MAUREEN MC CORMICK
25

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